

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1214

To be argued by
STEVEN LLOYD BARRETT

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

KENNETH CHARLES DAVIS,

Defendant-Appellant.

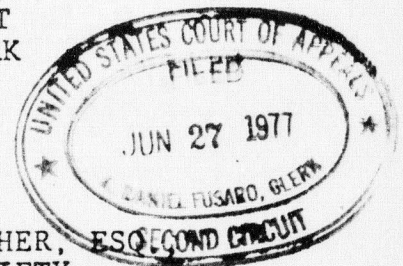
*B
P/S*
Docket No. 77-1214

APPENDIX TO APPELLANT'S BRIEF

ON APPEAL FROM AN ORDER
OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

WILLIAM J. GALLAGHER,
THE LEGAL AID SOCIETY,
Attorney for Appellant
KENNETH CHARLES DAVIS
FEDERAL DEFENDER SERVICES UNIT
509 United States Courthouse
Foley Square
New York, New York 10007
(212) 732-2971

STEVEN LLOYD BARRETT,
Of Counsel.



PAGINATION AS IN ORIGINAL COPY

JUDGE/MAGISTRATE Assigned U.S.		76 CR 770		Case No. 12-1	PLATT, J 76 770 Yr Docket No
0720	Disp / Sentence	vs. DAVIS, KENNETH CHARLES (LAST FIRST, MIDDLE)		No. of Defs	
FELONY Fel ☒ 207				JUVENILE	

U.S. TITLE SECTION 50: 462	OFFENSES CHARGED failed to report to induction into the Armed Forces of the U.S.	ORIGINAL COUNTS 2	CLOSED
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II. KEY DATES & INTERVALS		SUPERSEDING COUNTS	
ARREST of U.S. Custody Began 9/27/76 Summons Served First Appearance 9/27/76	INDICTMENT ☒ High Risk Date 12/1/76 Indict Waived In Charging District	ARRAIGNMENT ☒ 12/17/76 1st Plea ☒ G ☐ NOL Final Plea	TRIAL Trial Set For Voir Dire ☐ Trial Began ☐ Trial Ended Disposition of Charges 12/1/76 ☐ Convicted ☐ Acquitted ☐ Dismissed ☐ On Government's M

MAGISTRATE		OUTCOME:	
Search Warrant Issued Summons Issued Arrest Warrant Issued COMPLAINT OFFENSE (In Complaint)	DATE 9/27/76 INITIAL/NO. ASC/07E	INITIAL APPEARANCE DATE PRELIMINARY EXAMINATION OR REMOVAL HEARING ☒ WAIVED ☐ NOT WAIVED ☐ INTERVENING INDICTMENT Date Scheduled 10/18/76 Date Held Tape Number	☐ DISMISS ☐ HELD FOR GJ OR OTHER ☐ CEEDING IN THIS DISTRICT ☐ HELD FOR GJ OR OTHER ☐ CEEDING IN DISTRICT BE

U.S. Attorney or Asst. **Victor Rocco**

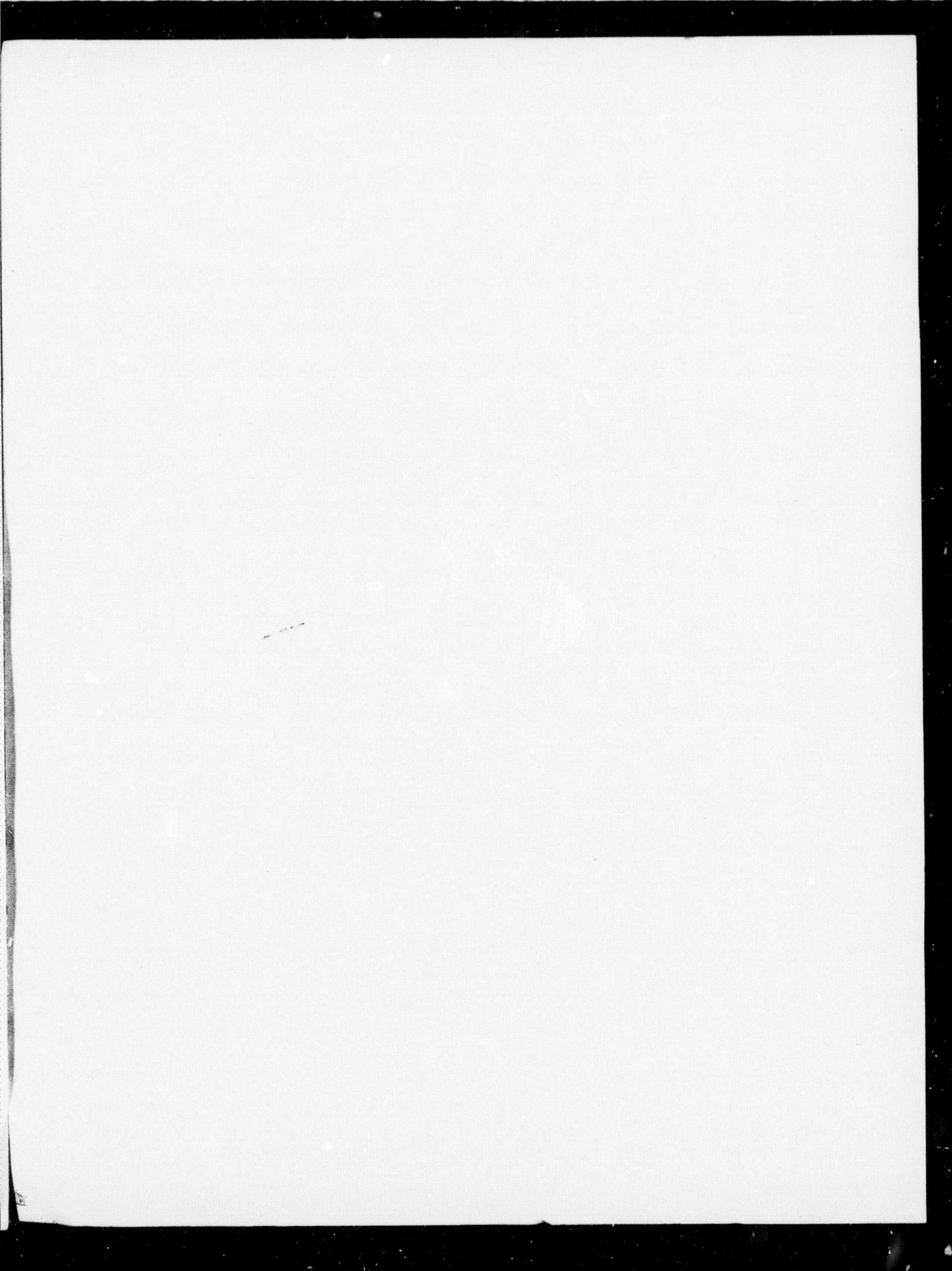
ATTORNEYS Defense ☐ CJA ☐ Ret ☐ Waived ☐ Self ☐ None / Other ☐ PD

* Show last names and suffix numbers of other defendants on same indictment/information

DATE	(DOCUMENT NO.)	PROCEEDINGS	EXCLUDABLE (a) (b)
12/1/76	Filed/	Transfer case received from District of New Jersey pursuant to rule 20 consisting of Consent to Transfer for plea and sentence, Notice of Arraignment, two - Orders, Notice of assignment, Notice of Allocation, copy of docket sheets, indictment, and J.S. # 3 card.	
12-17-76		Before PLATT, J.-Case called-Deft and counsel present-Deft aft being advised of his rights by the court and on his own behalf enters plea of guilty to ct 1-Bail cont'd-Sentence adjd w/o d	
12-23-76		Before Platt, J.- Case Called. Deft. & Counsel present. Deft. motion to extend bail limits to Florida - Granted with opposition. (On condition that deft. return 1-3-77).	
2-8-77		Before Platt, J - case called - counsel E.Kelly of Legal Aid present - adjd for sentence to 2-25-77 .	
2-25-77		Before PLATT, J. - Case called. Deft & counsel present. Deft's motion to withdraw plea of guilty argued. Decision reserved. Sentence adj'd without date.	

DATE	IV. PROCEEDINGS (continued)	PAGE TWO	V. EXCLUDABLE DELAY			
(DOCUMENT NO.)		Interval Section 8 (a)	Start Date End Date (b)	Ltr. Code (c)	Total Days (d)	
2.28.77	Defendant's Brief filed and forwarded to Chambers.					
2.28.77	Notice of Motion for an order permitting the deft. to withdraw his guilty plea filed and forwarded to Chambers.					
4-7-77	By PLATT, J - Opinion and Order filed on defts motion to withdraw plea of guilty and for further order remanding case to the Dist of New Jersey etc. Case should be marked "closed" subject only to the defts right to move to reargue, as indicated, within 10 days of the filing of this Order (General Rule 9(m) and his right to appeal within 30 days of the entry hereof. (F.R.App.Proc.Rule 4(a)). So Ordered.					
4/18/77	Notice of appeal filed.					
4/1877	Docket entries and duplicate of Notice of Appeal mailed to the C of A.					

FINE AND RESTITUTION PAYMENTS					
DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER



SM:ar
73 2694

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA :

v. :

Criminal No. 356-73

KENNETH CHARLES DAVIS :

:

The Grand Jury in and for the District of New
Jersey, sitting at Newark, charges:

COUNT I

That from on or about the 10th day of September,
1970, and continuously thereafter to and including the
date of the filing of this Indictment, in the District
of New Jersey and elsewhere,

KENNETH CHARLES DAVIS,

being a registrant with Local Board No. 13 for New Jersey,
Newark, New Jersey, and classified as I-A, and being required
by law under a written order dated August 28, 1970, trans-
mitted to said KENNETH CHARLES DAVIS to report for induc-
tion into the Armed Forces of the United States on August
28, 1970, knowingly and wilfully failed and neglected to
appear for such induction.

In violation of Title 50, United States Code,
Appendix, Section 462.

ORIGINAL FILED

JUN 1 - 1973

ANGELO W. LOCASCIO, CLERK

COUNT II

That from on or about the 24th day of September, 1970, and continuously thereafter to and including the date of the filing of this Indictment, in the District of New Jersey and elsewhere,

KENNETH CHARLES DAVIS,

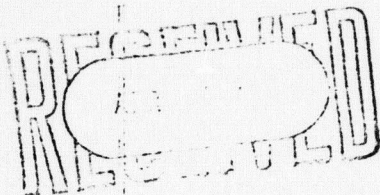
being a registrant with Local Board No. 19 for New Jersey, Newark, New Jersey, knowingly and wilfully failed to perform a duty required of him by the Military Selective Service Act of 1967, as amended, in that he failed and neglected to keep his local board informed as to his current address.

In violation of Title 50, United States Code, Appendix, Section 462.

A TRUE BILL.

Raymond J. Hooper
FORWARDED

/s/ Herbert J. Stern
HERBERT J. STERN
United States Attorney



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA,

76 CR 770

-against-

OPINION and ORDER

KENNETH CHARLES DAVIS,

April 7, 1977

Defendant.
-----x

PLATT, D.J.

Defendant moves for an order permitting him, pursuant to Rule 32(d) of the Federal Rules of Criminal Procedure, to withdraw his guilty plea offered on December 17, 1976, to Count One of the indictment herein and for a further order remanding his case to the District of New Jersey "for appropriate action there". The basis for defendant's motion appears to be the Presidential Proclamation of Pardon (No. 4483 dated January 21, 1977) granting a general pardon to violators of the Selective Service Act who had violated such law between August 4, 1964 and March 28, 1973.

In a two count indictment filed on June 1, 1973, in the United States District Court for the District of New Jersey, defendant was charged with failing to report for induction into the armed forces of the United States on August 28, 1970 (Count One) and with failing to keep his local draft board informed as to his current address (Count Two), all in violation of Title 50, U.S.C. Appendix § 452.

From June 1, 1973 until September 27, 1976 defendant successfully eluded the authorities and on the latter date he was arrested in this District and arraigned before Magistrate Chrein of this Court. On November 16, 1976, defendant consented to have his case transferred from the District of New Jersey to this District pursuant to Rule 20 of the Federal Rules of Criminal Procedure. Thereafter, on December 17, 1976, pursuant to an agreement with the United States Attorney for the District of New Jersey, the defendant was permitted to plead and pled guilty to Count One of the indictment with the understanding that at time of sentence the government would move to dismiss Count Two. A presentence report was requested and was in the process of completion when the Presidential Proclamation was issued.

In his memorandum submitted in support of his motion, defendant, through his attorney, asserts that he "accepts the general pardon and now pleads it in bar of any further proceedings in his case" (Br. for def. p. 7).

Three questions arise from this motion. First, does the Pardon render all proceedings under the pending indictment moot; second, is the defendant seeking appropriate relief in his request for permission to withdraw his guilty plea, enter a "not guilty" plea herein and have his case remanded to the District of New Jersey;^{1/} and third, would it be an abuse of discretion for this Court to refuse to permit defendant to interpose the Pardon as a bar to further proceedings at this juncture.

^{1/} We presume that the defendant's motion contemplates the entry of a plea of "not guilty" since Rule 20 only authorizes a transfer of the case back to New Jersey if the defendant pleads "not guilty".

As to the first question, the Court agrees with the dissenting opinion of the Chief Judge for the Court of Appeals for the Seventh Circuit in Bjerkan v. United States, 529 F.2d 125 (7th Cir. 1975), that because a conviction would materially affect (notwithstanding the Pardon) the future status of the defendant, the proceedings cannot be said to be moot by reason of the Pardon. (539 F.2d at 129). See also People ex rel. Prisament v. Brophy, 287 N.Y. 132 (1941), cert. den., 317 U.S. 625 (1942); and Petition of DeAngelis, 139 F.Supp. 779 (E.D.N.Y. 1956).

With respect to the second question, if the Court were to grant defendant's motion for permission to withdraw his guilty plea and to enter a "not guilty" plea in lieu thereof, it would appear that he might well be said to have waived^{2/} his pardon (See United States v. Wilson, 32 U.S. 150, at 160 (1833)), a result which the Court does not believe the defendant really wants.

As to the third question, this Court would not in the normal course exercise its discretion in a situation such as this which in the view of many will only result in a rank discrimination in favor of the defendant and against many others who were similarly situated to him in August of 1970 because

^{2/} At first blush this might not seem correct but the Court is convinced that it is, because it is well settled that a pardon to be effective must be accepted and by accepting a pardon a defendant admits his guilt. The inverse is likewise true, namely, the denial of one's guilt (i.e., a plea of "not guilty") after a pardon has been tendered constitutes a rejection or waiver of the pardon. United States v. Wilson, 32 U.S. 150 (1833).

the defendant herein successfully eluded the authorities for several years whereas those similarly situated to him either served their country in its time of need or were forced to suffer the punishment imposed on them for refusing to do so. In the eyes of a large part of our citizenry this is the type of manifest injustice that creates cynical disrespect for the law and for our country.

Nonetheless, the courts have repeatedly said in analogous situations that if a defendant has a defense for his crime and advances the same subsequent to the entry of a guilty plea but prior to sentence, permission to withdraw a guilty plea "should be rather freely granted", United States v. Joslin, 434 F.2d 526, 531 (D.C. Cir. 1970), and have reversed District Courts for abuse of discretion for failure to grant such permission where a defendant has a defense to assert. United States v. Young, 424 F.2d 1276 (3d Cir. 1970).

In many respects, this case presents an a fortiori situation to the case where a defendant bases his request for permission to withdraw his plea on the assertion of a legitimate defense. Hence this Court is of the opinion that, notwithstanding justifiable feelings with respect to the lack of fairness which has resulted herein, the defendant's plea of the Pardon in bar of any further proceedings in this case must be accepted. See United States v. Wilson, 32 U.S. 150, 160 (1833).

Since the Court has assumed^{3/} (on the basis of defendant's counsel's assertion that the defendant has accepted the pardon and pleaded the same as a bar) that the defendant does not wish to change his plea herein (with the consequent waiver of the pardon), Rule 20 of the Rules of Criminal Procedure does not require or provide for the return of the papers in this proceeding to the District of New Jersey; nor is there any provision for the dismissal of the indictment. Hence the net result is that the guilty plea to the indictment stands, the Presidential Pardon stands in bar of execution thereon, and the case should be and hereby is marked as "closed", subject only to defendant's right to move to reargue, as heretofore indicated, within 10 days of the filing of this Order (General Rule 9(m)) and his right to appeal within 30 days of the entry hereof (F.R. App.Proc. Rule 4(a)).

SO ORDERED.

Thom C. Blitt

U.S.D.J.

^{3/} If the Court's assumption on this point is incorrect, the defendant may, of course, move for reargument on this point.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA, :

-against- :

NOTICE OF MOTION

KENNETH CHARLES DAVIS, :

76 CR 770

Defendant.:

-----X

S I R S :

PLEASE TAKE NOTICE, that upon the annexed affidavit of EDWARD J. KELLY, ESQ., duly sworn to this 23rd day of February 1977, and upon all the papers and proceedings heretofore and herein, the undersigned, on behalf of the defendant, KENNETH CHARLES DAVIS, will move this Court, before the Honorable THOMAS C. PLATT, United States District Judge for the Eastern District of New York, at 225 Cadman Plaza East, Brooklyn, New York, Courtroom No. 7, on February 25, 1977 at 10:00 A.M., or as soon thereafter as counsel may be heard, for an order permitting the defendant, pursuant to Rule 32(d) of the Federal Rules of Criminal Procedure, to withdraw his guilty plea, offered on December 17, 1976 to Count One of the indictment; and a subsequent remanding of the case and indictment to the District of New Jersey for appropriate action there; and for such other and further relief as to the Court may seem just and proper.

DATED: BROOKLYN, NEW YORK
February 23, 1977.

yours, etc.,

WILLIAM J. GALLAGHER, ESQ.,
FEDERAL DEFENDER SERVICES UNIT
THE LEGAL AID SOCIETY
26 Court Street, Room 701
Brooklyn, New York 11242

TO: DAVID G. TRAGER, ESQ.,
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

CLERK, UNITED STATES DISTRICT COURT
BROOKLYN, NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA, :

-against- :

AFFIDAVIT

KENNETH CHARLES DAVIS, :

76 CR 770

Defendant. :

-----X

STATE OF NEW YORK)
COUNTY OF KINGS) SS:

EDWARD J. KELLY, being duly sworn, deposes and says:

1. He is an attorney associated with WILLIAM GALLAGHER ESQ., Federal Defender Services Unit/The Legal Aid Society, the attorney of record assigned to represent the defendant herein, KENNETH CHARLES DAVIS.

2. This affidavit is submitted in support of a motion on behalf of the defendant for an order permitting him, pursuant to Rule 32(d) of the Federal Rules of Criminal Procedure to withdraw his guilty plea, offered on December 17, 1976 to Count One of the indictment, and for, thereafter, a remand of the case and indictment to the United States District Court for the District of New Jersey for appropriate action there; and for such other and further relief as to the Court may seem just and proper.

3. The history of this case is as follows: In a two count indictment, filed on June 1, 1973 in the United States District Court for the District of New Jersey, the defendant DAVIS was charged with failing to report for induction into the Armed Forces of the United States on August 28, 1970 (Count One) and with failing to keep his local draft board informed as to his current address (Count Two), all in violation of Title 50, U.S.C. Appendix §462. Thereafter, on September 27, 1976, the defendant was arrested in this district and arraigned before

Magistrate Chrein on the same date. Defendant was released on a \$1000 Personal Appearance Bond.

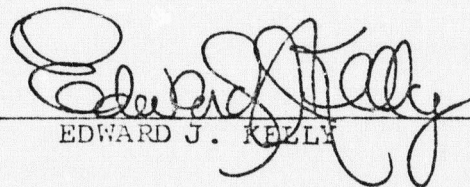
4. On November 16, 1976, before the Honorable MARK A. COSTANTINO, the defendant consented to have his case transferred from the District of New Jersey pursuant to Rule 20 of the Federal Rules of Criminal Procedure. Thereafter, the case was assigned to the Honorable THOMAS C. PLATT for all purposes. On December 17, 1976, pursuant to an agreement with the United States Attorney for the District of New Jersey, the defendant was permitted and did plead guilty to Count One of the Indictment, with the understanding that at the time of sentence, Count Two would be dismissed. The preparation of a pre-sentence report was initiated.

5. On January 21, 1977, President Carter, in his Presidential Proclamation of Pardon, Proclamation No. 4483, granted a general pardon to violators of the Selective Service Act who had violated such law between August 4, 1964 and March 28, 1973. On February 8, 1977, argument by counsel for the defendant and the United States was had before Judge Platt with respect to the posture of the case in the light of the intervention of the pardon. The Court was concerned that there was a crisis concerning the separation of powers between the Executive and the Judiciary in connection with this case which had proceeded to the entry of a guilty plea. It was suggested that counsel for the defendant brief the issues raised and both argument and sentence - the pre-sentence report had now been completed - were adjourned to February 25, 1977.

6. Counsel for the defendant now files this motion, with accompanying brief. For the reasons set forth in defendant's brief it is respectfully suggested that the issues have been clarified and the relief requested by the defendant should be granted.

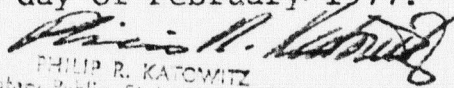
7. WHEREFORE, it is respectfully urged that an order,

pursuant to Rule 32(d) of the Federal Rules of Criminal Procedure, be entered, permitting the defendant DAVIS to withdraw his plea of guilty to Count One of the indictment; and for a remand of the case and the indictment to the United States District Court for the District of New Jersey for appropriate action there; and for such other and further relief as to the Court may seem just and proper.


EDWARD J. KELLY

Sworn to before me this

23 day of February, 1977.


PHILIP R. KATOWITZ
Notary Public, State of New York
No. 244518373
Qualified in Kings County
Term Expires March 30, 1977

Title 3—The President

PROCLAMATION 4483

GRANTING PARDON FOR VIOLATIONS
OF THE SELECTIVE SERVICE ACT,
AUGUST 4, 1964 TO MARCH 28, 1973

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

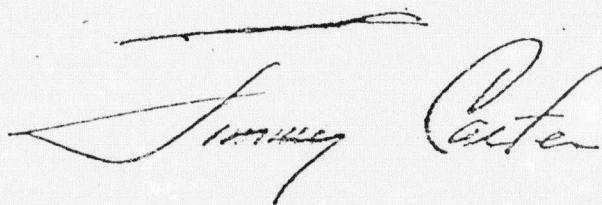
Acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I, Jimmy Carter, President of the United States, do hereby grant a full, complete and unconditional pardon to: (1) all persons who may have committed any offense between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act or any rule or regulation promulgated thereunder; and (2) all persons heretofore convicted, irrespective of the date of conviction, of any offense committed between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, restoring to them full political, civil and other rights.

JC
This pardon does not apply to the following who are specifically excluded therefrom:

(1) All persons convicted of or who may have committed an offense in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, involving force or violence; and

(2) All persons convicted of or who may have committed any offense in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, in connection with duties or responsibilities arising out of employment as agents, officers or employees of the Military Selective Service system.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of January, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and first.



[ER Doc.77-2467 Filed 1-21-77;1:04 pm]

EXECUTIVE ORDER 11967

RELATING TO VIOLATIONS OF THE SELECTIVE SERVICE ACT,
AUGUST 4, 1964 TO MARCH 23, 1973

The following actions shall be taken to facilitate
Presidential Proclamation of Pardon of January 21, 1977:

1. The Attorney General shall cause to be dismissed
with prejudice to the government all pending indictments
for violations of the Military Selective Service Act alleged
to have occurred between August 4, 1964 and March 23, 1973
with the exception of the following:

(a) Those cases alleging acts of force or
violence deemed to be so serious by the Attorney
General as to warrant continued prosecution; and

(b) Those cases alleging acts in violation
of the Military Selective Service Act by agents,
employees or officers of the Selective Service
System arising out of such employment.

2. The Attorney General shall terminate all investi-
gations now pending and shall not initiate further investigations
alleging violations of the Military Selective Service Act
between August 4, 1964 and March 28, 1973, with the exception
of the following:

(a) Those cases involving allegations of force
or violence deemed to be so serious by the Attorney
General as to warrant continued investigation, or
possible prosecution; and

(b) Those cases alleging acts in violation of the Military Selective Service Act by agents, employees or officers of the Selective Service System arising out of such employment.

3. Any person who is or may be precluded from reentering the United States under 8 U.S.C. 1182(a)(22) or under any other law, by reason of having committed or apparently committed any violation of the Military Selective Service Act shall be permitted as any other alien to reenter the United States.

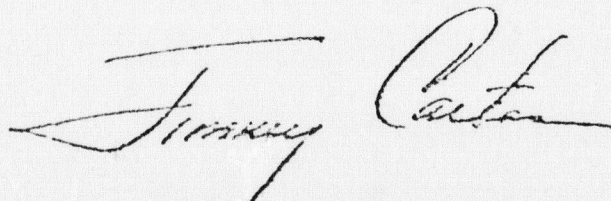
The Attorney General is directed to exercise his discretion under 8 U.S.C. 1182(d)(5) or other applicable law to permit the reentry of such persons under the same terms and conditions as any other alien.

This shall not include anyone who falls into the exceptions of paragraphs 1(a) and (b) and 2(a) and (b) above.

4. Any individual offered conditional clemency or granted a pardon or other clemency under Executive Order 11803 or Presidential Proclamation 4313, dated September 16, 1974, shall receive the full measure of relief afforded by this program if they are otherwise qualified under the terms of this Executive Order.

THE WHITE HOUSE,

January 21, 1977.



Privacy Act Notice to Persons Convicted of Selective Service Violations

Purpose and Use: The information which we request from you on the accompanying form is needed to enable the Attorney General to determine whether you were pardoned by the Presidential Proclamation of January 21, 1977 and, therefore, are entitled to a Certificate of Pardon. This is our only purpose in asking you to complete the application and you need not apply for a Certificate if you do not want it. A record of each Certificate of Pardon will be maintained in the Office of the Pardon Attorney as an official record and, upon specific request, we will advise anyone who asks whether a named individual has been issued a Certificate of Pardon pursuant to the Presidential Proclamation or otherwise advise as to the status of the application.

Authority: U. S. Constitution, Art. II, sec. 2; Exec. Order of President dated June 16, 1893; Presidential Proclamation 4483 of January 21, 1977, 28 CFR 0.35.

G

OFFICE OF THE PARDON ATTORNEY
DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20530

SELECTIVE SERVICE ACT VIOLATORS:

If you were convicted of a draft violation and were pardoned by the Presidential pardon proclamation of January 21, 1977, you are entitled to an individual certificate of pardon showing that the proclamation applies to you. If you believe that the proclamation applies to you and want such a certificate, complete the following application and return it to the above address. The information you furnish below will be verified.

Please type or print:

NAME: _____
(first) (middle) (last)

ADDRESS: _____
(number) (street) (apartment no.)

(city) (state) (zip code)

Applicant was convicted on _____ in the United States District Court for
(date)

the _____ District of _____ at _____
(eastern/northern, etc.) (state) (city)

of violating the Military Selective Service Act by committing the following
offense _____
(describe nature of offense)

sometime between August 4, 1964 and March 28, 1973. The conviction _____
(was/was not)

appealed and, if appealed, was affirmed. Applicant _____ an agent,
(was/was not)

officer or employee of the Military Selective Service System at the time he
committed the violation and the offense _____ involve force or violence
(did/did not)

With knowledge of the penalties for false statements to Federal Agencies as provided by 18 U.S.C. 1001 and with knowledge that this statement is submitted by me to affect action by the Department of Justice, I certify that the above statement is true and complete to the best of my information, knowledge and belief.

(date)

(signature)

United States Department of Justice

Office of the Pardon Attorney

Washington, D.C. 20530

EFFECT OF PARDON

A Presidential pardon is a sign of forgiveness. It does not erase or expunge the record of conviction nor does it, in itself, restore civil rights which may have been forfeited as a consequence of state law. It is usually helpful, however, in obtaining licenses, bonding or employment and in having any civil rights lost by reason of the conviction restored by state authorities.

A pardon by the President relieves the recipient of all legal disabilities in the nature of punishment attached to his conviction by reason of Federal law. For example, a pardon remits an unpaid fine. However, most civil disabilities attendant upon a felony conviction arise as a matter of state, rather than Federal law. For example, the right to vote, to hold public office under the state, to sit on a jury and other rights or privileges that are forfeited as a consequence of state law may only be restored by state action. Although a pardon removes any Federal firearms disabilities resulting from the conviction to which the pardon relates, there may be other firearms limitations arising under state or local laws.

On any application or other document which requires the information, a pardon recipient should disclose the fact of his arrest and conviction. However, the information that a pardon has been granted should be included and the certificate of pardon may be shown. The Federal Bureau of Investigation will be notified of each grant of pardon and will enter on its identification record pertaining to each grantee a notation that such grantee has been pardoned.

H

CERTIFICATE OF SERVICE

June 27, 1977

I hereby certify that a copy of this brief and appendix has been mailed to the United States Attorney for the Eastern District of New York.

Steven Lloyd Bennett

COPY RECEIVED
ROBERT B. ROSE
NOV 15 1977
U. S. ATTORNEY
SO. DIST. OF N. Y.